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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,070	06/23/2003	Wendell Martens	20920.NP	8602

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EXAMINER

SAFAVI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,070

Applicant(s)

MARTENS ET AL.

Examiner

M. Safavi

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Information Disclosure Statement

Applicants' remarks with regard to the information disclosure statement filed November 28, 2003 are not persuasive. Each publication must be identified by date and place of publication. The date of publication supplied must include at least the month and year of publication, except that the year of publication (without the month) will be accepted if the applicant points out in the information disclosure statement that the year of publication is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the particular month of publication is not in issue. See MPEP § 2128, 706.02(a)II, and 609(III)(A)(1).

Specification

The amendment filed April 13, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: amendment to page 10 inserting "...a two layer mattress system configured to provide the sole mattress support is disposed on a mattress support system such as a support system mentioned above."

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification had not originally presented a mattress system consisting of a "two layer mattress... wherein the two layer mattress is configured to provide the sole mattress support in a bedding system" as now appears recited in each of claims 1 and 17.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear as to what is being defined by claims 1-19 with each of claims 1 and 17 reciting a "two layer mattress..."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-8 and 17-19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Swanson.

Swanson discloses, Fig. 4 for example, a “two layer” mattress system having a core layer 116 of latex foam possessing a density of from about 2.0 to about 2.7 lb/ft³ with a thickness of from about 3” to about 7”, col. 3, lines 25-29 and col. 4, lines 18-20, (see also, the cited Calderon ‘094 patent showing evidence of a pincore type latex foam which is of 2.5 to 4-5 lb/ft³ in density). A top layer of viscoelastic foam 114 possessing a density of from about 3.0 to about 4.5 lb/ft³ with a thickness of from about 2” to about 4”, col. 2, lines 45-67 and col. 4, lines 14-18, is placed directly thereabove. Layer 116 and layer 114 form a “two layer mattress”. A removable cover is utilized, col. 5, lines 4-12.

The viscoelastic foam layer 114 of Swanson inherently possesses the characteristic of a layer configured to provide a substantially uniform response over a room temperature range of from about 55° F to about 85° F as well as the viscoelastic response of the layer 114 varying by less than about 15% within a range from about 30° F to about 100° F by virtue of the physical properties. Swanson discloses the limitations recited within instant claims 1, 2, 3, 5, and 18. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the Swanson mattress system with a top viscoelastic layer possessing a density of from about 3.0 to about 4.5 lb/ft³ with a thickness of from about 2" to about 4", and a core layer possessing a density of from about 2.0 to about 2.7 lb/ft³ with a thickness of from about 3" to about 7" particularly, when considering the disclosed values and ranges in Swanson, see *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990); *In re Geisler*, 116 F.3d 1465, 1469-71, 43 USPQ2d 1362, 1365-66 (Fed. Cir. 1997); *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985); and *In re Peterson*, 315 F.3d 1325, 1330, 65 USPQ2d 1379, 1382-83 (Fed. Cir. 2003). As such, forming Swanson with the claimed characteristics of a substantially uniform response over a room temperature range of from about 55° F to about 85° F as well as the viscoelastic response of the layer 114 varying by less than about 15% within a range from about 30° F to about 100° F would have been an obvious formulation of an optimal range, see *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955); *Peterson*, 315 F.3d at 1330, 65 USPQ2d at 1382; *In re Hoeschele*, 406 F.2d 1403, 160 USPQ 809 (CCPA

1969); Merck & Co. Inc. v. Biocraft Laboratories Inc., 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989); In re Kulling, 897 F.2d 1147, 14 USPQ2d 1056 (Fed. Cir. 1990); and In re Geisler, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997).

2. Claims 1-8 and 17-19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Landvik et al. '574

Landvik et al. '574 discloses, Figs. 3 and 7, a "two layer" mattress system having a core layer 5 of polyurethane foam possessing a density of from about 2.0 to about 2.7 lb/ft³ with a thickness of from about 3" to about 7", col. 2, lines 49-51. A top layer of viscoelastic foam 6, or 6/7, possessing a density of from about 3.0 to about 4.5 lb/ft³ with a thickness of from about 2" to about 4", col. 2, lines 52-55 and lines 60-64, is placed directly thereabove. Layer 5 and layer 6 form a "two layer mattress". A removable cover is utilized, col. 3, lines 21-38. The viscoelastic foam layer 6, or 6/7, of Landvik et al. '574 inherently possesses the characteristic of a layer configured to provide a substantially uniform response over a room temperature range of from about 55° F to about 85° F as well as the viscoelastic response of the layer 114 varying by less than about 15% within a range from about 30° F to about 100° F by virtue of the physical properties. Landvik et al. '574 discloses the limitations recited within instant claims 1, 2, 3, 5, and 18. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the Landvik et al. '574 mattress system with a top viscoelastic layer possessing a density of from about 3.0 to

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about 4.5 lb/ft³ with a thickness of from about 2" to about 4", and a core layer possessing a density of from about 2.0 to about 2.7 lb/ft³ with a thickness of from about 3" to about 7" particularly, when considering the disclosed values and ranges in Landvik et al. '574, see *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990); *In re Geisler*, 116 F.3d 1465, 1469-71, 43 USPQ2d 1362, 1365-66 (Fed. Cir. 1997); *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985); and *In re Peterson*, 315 F.3d 1325, 1330, 65 USPQ2d 1379, 1382-83 (Fed. Cir. 2003). As such, forming Landvik et al. '574 with the claimed characteristics of a substantially uniform response over a room temperature range of from about 55° F to about 85° F as well as the viscoelastic response of the layer 114 varying by less than about 15% within a range from about 30° F to about 100° F would have been an obvious formulation of an optimal range, see *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955); *Peterson*, 315 F.3d at 1330, 65 USPQ2d at 1382; *In re Hoeschele*, 406 F.2d 1403, 160 USPQ 809 (CCPA 1969); *Merck & Co. Inc. v. Biocraft Laboratories Inc.*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989); *In re Kulling*, 897 F.2d 1147, 14 USPQ2d 1056 (Fed. Cir. 1990); and *In re Geisler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997).

3. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swanson as applied to claims 1-8 and 17-19 above, and further in view of either Loberg et al. or de Gelis et al.

Loberg et al. discloses, Figs. 1 and 4, a mattress base or support including a perimeter frame 21, a plurality of slats 41, spanning transversely across the perimeter frame and positioned to directly contact a bottom surface of the mattress, including at least seven pairs of adjustable slats (upper 41), each pair being positioned to support specific area of a body disposed atop the mattress, a plurality of stiffener slats, (lower 41), spanning transversely across the perimeter frame, each stiffener slat being disposed beneath a corresponding pair of adjustable slats, and at least one moveable adjuster clip 70 interconnected between each stiffener slat and the corresponding pair of adjustable slats, configured to be selectively moveable across the span of the slats, so as to adjust a relative flexural stiffness of the corresponding pair of adjustable slats. Fig. 8 discloses support base having independently adjustable longitudinal sides.

de Gelis et al. discloses, Figs. 1 and 3, a mattress base or support 1 including a perimeter frame 6/8/10, a plurality of slats 3, spanning transversely across the perimeter frame and positioned to directly contact a bottom surface of the mattress, including at least seven pairs of adjustable slats 3, each pair being positioned to support specific area of a body disposed atop the mattress, a plurality of stiffener slats 8 spanning transversely across the perimeter frame, each stiffener slat being disposed beneath a corresponding pair of adjustable slats, and at least one moveable adjuster clip 19 interconnected between each stiffener slat and the corresponding pair of adjustable slats, configured to be selectively moveable across the span of the slats, so as to adjust a relative flexural stiffness of the corresponding pair of adjustable slats. Support base having independently adjustable longitudinal sides is disclosed at col. 5, lines 50-59.

To have provided the mattress of Swanson, alone or as modified, with a base having the adjustable slat/clip support of Loberg et al. or de Gelis et al., support base having independently adjustable longitudinal sides thus allowing any desired firmness of sleeping surface along an entire body or specific portions thereof including a shoulder region, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Loberg et al. and de Gelis et al.

4. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landvik et al. '574 as applied to claims 1-8 and 17-19 above, and further in view of either Loberg et al. or de Gelis et al.

Loberg et al. discloses, Figs. 1 and 4, a mattress base or support including a perimeter frame 21, a plurality of slats 41, spanning transversely across the perimeter frame and positioned to directly contact a bottom surface of the mattress, including at least seven pairs of adjustable slats (upper 41), each pair being positioned to support specific area of a body disposed atop the mattress, a plurality of stiffener slats, (lower 41), spanning transversely across the perimeter frame, each stiffener slat being disposed beneath a corresponding pair of adjustable slats, and at least one moveable adjuster clip 70 interconnected between each stiffener slat and the corresponding pair of adjustable slats, configured to be selectively moveable across the span of the slats, so as to adjust a relative flexural stiffness of the corresponding pair of adjustable slats. Fig. 8 discloses support base having independently adjustable longitudinal sides.

de Gelis et al. discloses, Figs. 1 and 3, a mattress base or support 1 including a perimeter frame 6/8/10, a plurality of slats 3, spanning transversely across the perimeter frame and positioned to directly contact a bottom surface of the mattress, including at least seven pairs of adjustable slats 3, each pair being positioned to support specific area of a body disposed atop the mattress, a plurality of stiffener slats 8 spanning transversely across the perimeter frame, each stiffener slat being disposed beneath a corresponding pair of adjustable slats, and at least one moveable adjuster clip 19 interconnected between each stiffener slat and the corresponding pair of adjustable slats, configured to be selectively moveable across the span of the slats, so as to adjust a relative flexural stiffness of the corresponding pair of adjustable slats. Support base having independently adjustable longitudinal sides is disclosed at col. 5, lines 50-59.

To have provided the mattress of Landvik et al. '574, alone or as modified, with a base having the adjustable slat/clip support of Loberg et al. or de Gelis et al., including support base having independently adjustable longitudinal sides, thus allowing any desired firmness of sleeping surface along an entire body or specific portions thereof including a shoulder region, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Loberg et al. and de Gelis et al.

5. Claims 12-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swanson as applied to claims 1-8 and 17-19 above, and further in view of Frydman.

Frydman discloses, Figs.1 and 3 for example, a pillow 20 including a body 28 of viscoelastic foam, col. 4, lines 1-6, having a contoured top side including a ridge, and a bottom side with first and second insert pockets 40 and two foam inserts 48, configured to be inserted into the insert pocket "so as to increase the stiffness of the pillow below the ridge", (any insert would accomplish such). A back support ridge, parallel to and above the first insert pocket is at 22 and a side support ridge, parallel to and above the second insert pocket is at 24.

To have provided the Swanson mattress assembly, alone or as modified, with a viscoelastic pillow possessing a foam insert, thus providing any desired pillow to the mattress assembly, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Frydman. Selecting any specific viscoelastic material for the Frydman pillow portion 28 including a material configured to provide a substantially uniform response over a room temperature range of from about 550 F to about 850 F., thus providing a stable pillow for the mattress assembly, would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made particularly, when considering the disclosure of Swanson, alone or as modified.

6. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landvik et al. '574 as applied to claims 1-8 and 17-19 above, and further in view of Frydman.

Frydman discloses, Figs.1 and 3 for example, a pillow 20 including a body 28 of viscoelastic foam, col. 4, lines 1-6, having a contoured top side including a ridge, and a bottom side with first and second insert pockets 40 and two foam inserts 48, configured to be inserted into the insert pocket "so as to increase the stiffness of the pillow below the ridge", (any insert would accomplish such). A back support ridge, parallel to and above the first insert pocket is at 22 and a side support ridge, parallel to and above the second insert pocket is at 24.

To have provided the Landvik et al. '574 mattress assembly, alone or as modified, with a viscoelastic pillow possessing a foam insert, thus providing any desired pillow to the mattress assembly, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Frydman. Selecting any specific viscoelastic material for the Frydman pillow portion 28 including a material configured to provide a substantially uniform response over a room temperature range of from about 550 F to about 850 F., thus providing a stable pillow for the mattress assembly, would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made particularly, when considering the disclosure of Landvik et al., alone or as modified.

7. Claims 12-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swanson as applied to claims 1-8 and 17-19 above, and further in view of Davis when considering any of Contreras or Johnson et al. or Frydman.

Davis discloses, Figs. 2, 9, 11, and 12 for example, a pillow 10 including a body of foam having a contoured top side including a ridge, and a bottom side with first and second insert pockets and two foam inserts 17a, 17b, configured to be inserted into the insert pocket "so as to increase the stiffness of the pillow below the ridge", (any insert would accomplish such). A back support ridge, parallel to and above the first insert pocket is at 11 and a side support ridge, parallel to and above the second insert pocket is at 12. Any of various cross sectional shaped may be utilized for the inserts, col. 4, lines 30-32 and col. 5, lines 64-67 with the insert encompassing a variety of constant or variable compressibilities, col. 2, lines 1-2.

Each of Contreras, Johnson et al., and Frydman discloses a pillow formed of a viscoelastic material.

To have provided the Swanson mattress assembly, alone or as modified, with a viscoelastic pillow possessing a foam insert, thus providing any desired pillow to the mattress assembly, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Davis when considering any of Contreras or Johnson et al. or Frydman. Selecting any specific viscoelastic material for the modified Davis pillow 10 including a material configured to provide a substantially uniform response over a room temperature range of from about 550 F to about 850 F., thus providing a stable pillow for the mattress assembly, would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made particularly, when considering the disclosure of Swanson, alone or as modified.

8. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landvik et al. '574 as applied to claims 1-8 and 17-19 above, and further in view of Davis when considering any of Contreras or Johnson et al. or Frydman.

Davis discloses, Figs. 2, 9, 11, and 12 for example, a pillow 10 including a body of foam having a contoured top side including a ridge, and a bottom side with first and second insert pockets and two foam inserts 17a, 17b, configured to be inserted into the insert pocket "so as to increase the stiffness of the pillow below the ridge", (any insert would accomplish such). A back support ridge, parallel to and above the first insert pocket is at 11 and a side support ridge, parallel to and above the second insert pocket is at 12. Any of various cross sectional shaped may be utilized for the inserts, col. 4, lines 30-32 and col. 5, lines 64-67 with the insert encompassing a variety of constant or variable compressibilities, col. 2, lines 1-2.

Each of Contreras, Johnson et al., and Frydman discloses a pillow formed of a viscoelastic material.

To have provided the Landvik et al. '574 mattress assembly, alone or as modified, with a viscoelastic pillow possessing a foam insert within a pocket beneath respective ridges, thus providing any desired pillow to the mattress assembly, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Davis when considering any of Contreras or Johnson et al. or Frydman. Selecting any specific viscoelastic material for the modified Davis pillow 10 including a material configured to provide a substantially uniform response over a room

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temperature range of from about 550 F to about 850 F., thus providing a stable pillow for the mattress assembly, would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made particularly, when considering the disclosure of Landvik et al., alone or as modified.

Response to Arguments

Applicant's arguments filed April 13, 2005 have been fully considered but they are not persuasive. With each of the Swanson and Landvik et al. '574 mattress assemblies, alone or as modified, the top layer of viscoelastic foam is disposed directly atop the respective core layer. Thus, the respective core layer and viscoelastic foam layer taught by each of Swanson and Landvik et al.'574 form a "two layer mattress".

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M. Safavi
June 22, 2005

**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**